

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIROBUMI NIITSUMA and
DAISUKE SHIRAI

Appeal No. 96-1305
Application 08/188,629¹

ON BRIEF

Before URYNOWICZ, THOMAS and JERRY SMITH, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

¹ Application for patent filed January 28, 1994. According to the appellants, this application is a continuation of Application 07/914,271, filed July 15, 1992, now abandoned.

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DECISION ON APPEAL

Appellants have appealed² to the Board from the examiner's final rejection of claims 10, 12 to 14 and 17 to 19. The examiner has allowed claim 11 and has indicated that claims 20 to 22 are objected to as being dependent upon a rejected base claim. Claims 1 to 9, 15 and 16 have been canceled.

Representative claim 10 is reproduced below:

10. A coordinate input device comprising:

a housing including a semi-spherical wall having a concave surface located on a first side and a convex surface located on a second side, said housing defining a plurality of holes formed through said semi-spherical wall;

a plurality of cylinders, each of said plurality of cylinders having a fixed end integrally connected to said convex surface and a free end located on said second side, each cylinder including a central passage extending from an opening formed in said free end to one of said plurality of holes;

a plurality of ball supporting members, each ball supporting member being received in one of said central passages of said plurality of cylinders such that a portion of said ball supporting member extends from one of said holes, and wherein an outer diameter of said each of said plurality

² The notice of appeal filed on May 15, 1995 does not include claim 10. Since claim 10 is argued in the brief and the entire prosecution history indicates appellants intend to pursue this claim, we consider this omission to be inadvertent.

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of ball supporting members is larger than a diameter of said plurality of holes;

means for retaining said plurality of ball supporting members in said central passages such that the portion of each of said plurality of ball supporting members extends from an associated one of said plurality of holes; and

a ball rotatably disposed on said first side against the extending portions of each of said plurality of ball supporting members.

The following reference is relied on by the examiner:

Mimlitch et al. (Mimlitch)	5,171,978	Dec. 15,
1992		
	(filed Nov. 22, 1991)	

Claims 10, 12 to 14 and 17 to 19 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon appellants' admitted prior art as to claims 18 and 19, with the addition of Mimlitch as to claims 10, 12 to 14 and 17.

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and the answer for the respective details thereof.

OPINION

Generally for the reasons expressed by the appellants in the brief, we reverse both rejections of all claims on appeal.

Turning first to the rejection of claims 18 and 19, with respect to independent claim 18, the reasoning advanced by the examiner in the answer appears to be misplaced since the statement of the rejection at pages 2 and 3 of the answer indicates a reference to appellants' disclosed invention in Fig. 2. However, in context with the responsive remarks portion of pages 5 and 6 of the answer, the examiner is referring to appellants' prior art Fig. 12 as a basis for the rejection in addition to certain portions of the background of the invention at specification pages 2 and 3.

Although we would agree with the examiner's position that it would have been obvious that the claimed semi-spherical surface of a supporting member may be read upon two semi-spherical surfaces of ball 2 in appellants' Fig. 12, the examiner's position presumes that the remaining portions of Fig. 12 meet the rest of the claim recitations in claim 18. The examiner's position misreads and therefore misapplies the teachings and showings associated with this figure against claim 18. The claimed relationship of the various elements of

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the first and second sides recited in claim 18 is not found in appellants' prior art Fig. 12. Therefore, we do not sustain the rejection of independent claim 18 as well as its dependent claim 19.

For the same reasons we reverse the rejection of independent claim 18, we reverse the rejection of independent claim 10 and the more specific version of it found in independent claim 17. Mimlitch does not cure the deficiencies of appellants' prior art Fig. 12. For the sake of simplicity, we assume for the sake of argument that it would have been obvious within 35 U.S.C. § 103 to have combined the teachings of Mimlitch and appellants' admitted prior art Fig. 12. However, the resulting combination does not yield the subject matter of independent claims 10 and 17 on appeal for the reasons argued by appellants in their brief.

In view of the foregoing, we have reversed the rejection of each independent claim 10, 17 and 18 on appeal and, therefore, the rejection of their respective dependent claims. Therefore, the decision of the examiner is reversed.

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REVERSED

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STANLEY M. URYNOWICZ, JR.)	
Administrative Patent Judge)	
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JAMES D. THOMAS)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
JERRY SMITH)	
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